

DRAFT – 05/12/2005

May , 2005

Herculaneum Community Advisory Group
Core Team Leaders:

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Dear Herculaneum CAG Core Team Leaders:

I am writing in response to your letter dated April 19, 2005, regarding Doe Run's current haul route through the City of Herculaneum. The department agrees with many of the factual points and arguments in your letter, and we appreciate the opportunity to respond to your demands. Following are responses to each of the demands enumerated in your letter, through which I address and elaborate on many of the other points made in your letter.

1. *"Beginning immediately, MDNR should sample weekly along the current haul route for better data on lead in road dust."*

Because of the department's many and varied functions protecting public health and the environment for all Missourians, and budgetary constraints, we do not have the resources (funding, staff, laboratory capacity, etc.) to collect road dust samples from multiple

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sample locations in Herculaneum and analyze them on a weekly basis. The department is confident of the quality of the road dust and other sample analytical data produced by the U. S. Environmental Protection Agency (USEPA). The USEPA's data to date show an increase in lead concentrations on the Main Street haul route. We agree that the re-routing of concentrate truck traffic to the Main Street haul route may warrant re-evaluation of haul route road dust sample locations and sampling frequency. However, weekly road sampling and analyses would only give a minor degree more confidence in the upward trend that we already agree is occurring.

2. *"EPA should set a road standard for lead."*

I will not presume to speak for the USEPA on this issue. However, I will say it appears that establishment of a national risk-based road dust lead standard would require much data collection and analysis to provide the needed scientific support for establishing such a standard, which may then only be applicable in a few locations in the nation.

3. *"Doe Run should repave the haul roads so that lead levels are equivalent to non-haul route levels, as required by the April 2002 State Settlement Agreement."*

The provisions for the Transportation and Materials Handling Plan (TMHP) in the April 26, 2002, Settlement Agreement were intended to resolve Corrective Actions 1, 2, and 3 of the September 25, 2001, Order to Abate and Cease and Desist Violations issued by the department to Doe Run. The department has struggled to convince Doe Run to implement effective measures to prevent contamination in Herculaneum related to transportation and materials handling processes. This has ultimately resulted in the department's November 16, 2004, notice of disapproval of the current Herculaneum smelter TMHP.

Corrective Action 2 in the Abatement Order contained provisions for road re-paving. The department believes that re-paving haul roads remains a viable corrective action alternative, and was most recently mentioned in our November 16, 2004, notice of disapproval of the TMHP. However, we also believe that effective improvements to transportation and materials handling and other facility processes must be implemented to prevent releases of lead contributing to contamination of road dust and soil and the total lead load in the community. In the absence of such measures, it would appear new pavement would quickly become recontaminated.

Repaving is one of many actions the department has suggested to Doe Run in numerous letters and meetings for reducing contamination of road dust and other environmental media within the context of the TMHP. Doe Run has responded to the department's notice of disapproval of the TMHP with letters dated December 17, 2004, and March 9, 2005, which briefly describe actions the company is taking to evaluate and improve transportation processes. The department and the Attorney General's Office have recently responded to these letters, and copies of our responses are enclosed.

4. *"MDNR should repost signs in Herculanum to warn of lead dust in the streets."*

Street signs were posted in Herculanum in 2001 based largely on the determination of the Missouri Department of Health and Senior Services (DHSS) of an imminent and substantial endangerment to public health due to extremely elevated levels of lead contamination, and the DHSS's request that the Department of Natural Resources take all necessary and appropriate actions to eliminate this source of exposure. Doe Run and the state agreed in paragraph 16 of the Settlement Agreement that the street signs posted in 2001 would be removed once the USEPA approved the Transportation and Materials Handling Plan, and Doe Run began following it. Doe Run has implemented many controls attempting to minimize contamination in Herculanum from smelter, transportation, and material handling processes.

Although lead levels in road dust are still unacceptably high, they are not at the extreme concentrations and volumes that were present when DHSS declared an imminent and substantial endangerment in Herculanum in 2001. The incidence of childhood blood lead elevations has been reduced dramatically since that time. Many residents in the VPP area have moved, so there are fewer people living near the plant at risk of exposure. Doe Run under oversight by the USEPA and the department has conducted soil cleanups in many residential yards within a 1.5-mile radius of the smelter. Doe Run has met the National Ambient Air Quality Standard (NAAQS) for lead for the last two years, with the exception of the first quarter 2005. Because of these and other actions, the state and federal health agencies have determined that there is currently not an imminent and substantial endangerment to residents of Herculanum.

However, the department's analysis of soil recontamination sample analytical data indicates that statistically significant soil recontamination is occurring within about 0.75 mile of the smelter. The rates of recontamination calculated by the department may result in soil lead levels exceeding 400 parts per million in less than four years in areas within 0.25 mile of the smelter, and less than seven years for areas between 0.25 and 0.75 mile of the smelter. Guided in part by this soil recontamination monitoring data, we anticipate the department will seek additional controls from Doe Run to prevent conditions from deteriorating to the point that warning signs would be needed. However, the department, in consultation with the DHSS, may again consider warning signs if data becomes available indicating such action is warranted. Placing new warning signs would be a significant action for the department that must again be supported by convincing scientific evidence of an imminent and substantial endangerment to public health, which does not currently exist.

5. *"Doe Run should offer to purchase homes on the residential streets that Doe Run trucks use."*

Currently, the only homes in Herculanum for which Doe Run is obligated to make purchase offers are those in the Voluntary Property Purchase area defined in the Settlement Agreement. The department has attempted to persuade Doe Run to purchase homes

outside the VPP area, including those along the former primary concentrate truck haul route. The company has consistently declined to do so.

Doe Run's current use of the Main Street haul route as the primary haul route for concentrate truck traffic has not been approved by the department pursuant to the Settlement Agreement. However, there are few if any other currently feasible alternative concentrate truck haul routes through Herculanum. The department considers use of the Main Street haul route for concentrate truck traffic to be unsatisfactory, but only a temporary solution to a difficult problem.

The June 30, 2005, deadline for residents of the Voluntary Property Purchase (VPP) area to decide whether they will accept offers from Doe Run to purchase their properties is rapidly approaching. At that time, there should be a clearer picture of which properties in the VPP area will remain occupied, and which properties will be vacant. We believe this would be an opportune time to resume discussions on available concentrate truck haul routes that maximize use of the VPP area and pass as few occupied residences as possible until another solution is ultimately achieved that results in avoiding residential areas altogether.

It should be noted that continued upward trends in soil recontamination demonstrated by the USEPA's soil recontamination sampling and analyses, in addition to speciation and bioavailability sampling and analyses being conducted by the USEPA and/or other data may result in additional actions to protect public health and the environment.

6. *"Joachim Bridge should be rehabilitated in addition to the building of a new bridge, so that residential cars will not have to travel along the same route as Doe Run trucks."*

It is our understanding that the existing Joachim Avenue bridge remains available for any traffic not exceeding the weigh restrictions. We also understand that current plans include both rehabilitation/replacement of the existing Joachim Bridge in addition to a new bridge over Joachim Creek to the south.

The department respects and appreciates your concerns and active participation in defending the health of your community. I can assure you the department remains vigilant regarding the public health and environmental risks in Herculanum and nearby areas related to smelter operations. Most of the issues you raise in your letter are being addressed by current actions or are in the process of being addressed by the agencies. However, in the absence of imminent and substantial risk to human health or the environment, and/or the factual and scientific bases for enforcement action, implementation of corrective actions requires time.

If you have any questions, or would like to further discuss this matter further, please contact
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Sincerely,

DEPARTMENT OF NATURAL RESOURCES

Doyle Childers
Director

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Enclosures

c: Honorable John Chamis, Mayor of Herculaneum
 Honorable Jim Talent, U. S. Senator
 Honorable Christopher S. Bond, U. S. Senator
 Honorable Russ Carnahan, U. S. Representative
 Honorable Matt Blunt, Governor
 Honorable Bill Alter, Missouri Senator
 Honorable Ron Casey, Missouri Representative
 Mr. Gene Gunn, USEPA Region VII
 Mr. Bruce Morrison, USEPA Region VII
 Ms. Denise Jordan-Izaguirre, ATSDR
 Ms. Leanne Tippet-Mosby, DNR APCP
 Ms. Cherri Baysinger, DHSS
 Mr. Jeffrey Zelms, The Doe Run Company